

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

SHANE LOUIS BURD,

Plaintiff,

vs.

SGT. WEBER, LT. POSTMA, SGT.
AYERS, and CARRY WALSTED,

Defendants.

CV-21-0025-H-SEH

ORDER

Mail sent to Plaintiff Shane Louis Burd from this Court on January 13, 2022, has again been returned as undeliverable,¹ notwithstanding that the Court had previously advised him that he must, at all times, immediately advise the Court and opposing counsel of any change of address.²

Fed. R. Civ. P. 41(b) authorizes the Court, on its own without awaiting a motion, to dismiss an action “[i]f the plaintiff fails to prosecute” the action.³

“The public’s interest in expeditious resolution of litigation ... favors dismissal.”⁴ Burd has failed to update his address or otherwise move this litigation

¹ Doc. 19.

² Doc. 12; Fed. R. Civ. P. 41(b).

³ *Link v. Wabash Railroad Co.*, 370 U.S. 626, 633 (1962); *Hells Canyon Preservation Council v. United States Forest Serv.*, 403 F. 3d 683, 689 (9th Cir. 2005).

⁴ *Yourish v. California Amplifier*, 191 F. 3d 983, 990 (9th Cir. 1999).

forward. “The trial judge is in the best position to determine whether the delay in a particular case interferes with docket management and the public interest.”⁵

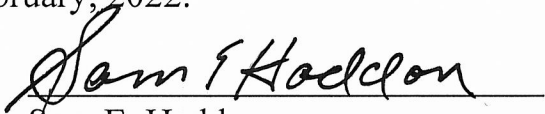
The Court cannot manage its docket if a party refuses to honor the Court’s orders. A rebuttable presumption of prejudice to respondents arises if a plaintiff unreasonably delays prosecution of an action.⁶ All factors favor dismissal.

Burd did not comply with the Court’s order.⁷ Less drastic alternatives have been considered. This case cannot move forward. Dismissal is warranted.

ORDERED

1. Burd’s Complaint⁸ is DISMISSED for failure to prosecute.
2. Filing of this action counts as one strike under 28 U.S.C. § 1915(e)(2)(B)(ii).
3. The Clerk of Court is directed to close this case and enter judgment of dismissal.

DATED this 11th day of February, 2022.


Sam E. Haddon
United States District Court Judge

⁵ *Pagtalunan v. Galaza*, 291 F. 3d 639 (9th Cir. 2002).

⁶ *In re Eisen*, 31 F.3d 1447, 1452-53 (9th Cir. 1994).

⁷ Doc. 18.

⁸ Doc. 2.